

AMENDMENTS TO THE DRAWINGS

Please amend the drawings as follows. Please replace the drawing sheet containing FIG. 7 with the replacement drawing sheet attached hereto.

REMARKS

Prior to entry of the instant amendment, claims 1-11, 17, 19, 24, 28-40, 45, 50 and 53-68 are pending in the instant application, of which claims 2, 7, 9, 11, 30, 35, 37, and 50 are presently withdrawn. By the instant amendment, the specification, drawing FIG. 7 and claims 1, 28 and 36 are amended, and claims 2 and 11 are cancelled.

Claims 1, 3-10, 17, 19, 24, 28-40, 45, 50 and 53-68 are presented to the Examiner for further consideration on the merits. Claims 1 and 28 are independent.

A. Introduction

In the outstanding Office action, the Examiner withdrew the restriction requirement; objected to the drawings under 35 U.S.C. § 132(a); objected to the specification; and rejected claims 1, 3-6, 8, 10, 17, 19, 24, 28, 29, 31-34, 36, 38-40, 45 and 53-68 under 35 U.S.C. § 112, second paragraph.

B. Withdrawal of the Restriction Requirement

Applicants appreciate the Examiner's rejoinder and withdrawal of the restriction requirement with respect to claims 28, 29, 31-34, 36, 38-40, 45 and 61-67.

Applicants also note the Examiner's assertion that "the features of claims 2 and 11 were not originally disclosed for use with the perpendicular adjusters set forth in claim 1."¹ By the instant amendment, claims 2 and 11 are cancelled without prejudice or disclaimer of the subject matter recited therein. Applicants reserve the right to prosecute the subject matter of the cancelled claims at a later date.

C. Objection to the Drawings

In the outstanding Office action, the Examiner objected to the drawings under 35 U.S.C. § 132(a). Applicants respectfully traverse this objection for at least the reasons set forth below.

¹ Office action mailed July 30, 2007, paragraph no. 2, page 2.

In the Office action, the Examiner asserted that the “central box” in drawing FIG. 7 does not appear to be properly supported by the original disclosure.² Applicants respectfully disagree, and respectfully submit that the “central box” illustrated therein merely illustrates a generic arrangement of the electrode distance adjusters in accordance with the embodiments recited in the claims. Nonetheless, in an effort to advance prosecution of the application, by the instant amendment, drawing FIG. 7 is amended by way of the attached replacement sheet, in which the central box has been omitted.

Applicants respectfully submit that the drawing FIG. 7, as amended by the instant amendment, does not introduce new matter into the disclosure under 35 U.S.C. 132(a). In particular, each and every detail illustrated in drawing FIG. 7 is supported by the original disclosure, and no new details have been added.

1. The electrodes on the distance adjusters are supported

In the Office action, the Examiner asserted that the particular electrodes illustrated in drawing FIG. 7 do not appear to be properly supported by the original disclosure.³ Applicants respectfully disagree, and respectfully submit that the electrodes shown on the distance adjusters in drawing FIG. 7 are clearly supported by original drawing FIG. 4A, which shows the same electrodes disposed on a distance adjuster.

Moreover, while paragraph [0045] of the application states that separate distance adjusters may need to be provided when the distance adjusters are used in combination with the electrodes shown in FIGS. 2A-2D or with electrodes having an oval structure with an opening portion, it does *not* state that, in the case of separate distance adjusters, the straight-line impedance measurement electrodes shown in FIGS. 3A-3D and 4A-4B cannot be similarly used. Accordingly, applicants respectfully submit that the Examiner’s objection to the drawings in this regard is contrary to the teachings of the original disclosure.

² Office action mailed July 30, 2007, paragraph no. 7, p. 3.

³ The Examiner asserted that the perpendicular adjustors may be used with the electrode configuration shown in FIGS. 2A-2D, whereas FIG. 7 illustrates electrodes similar to those illustrated in FIG. 4A. *Office action mailed July 30, 2007, paragraph no. 7, p. 3.*

2. The arrangement of distance adjusters is supported

Applicants further submit that the perpendicular arrangement of distance adjusters is supported by the original disclosure. Moreover, the spaced-apart arrangement of the distance adjusters is supported by the original disclosure. In particular, the original disclosure describes a “first electrode distance adjuster” having a “first stationary screw line” and a “second electrode distance adjuster” having a “second stationary screw line,” “wherein the first stationary screw line and the second stationary screw line are separated from each other by a predetermined distance and are perpendicular to each other.”⁴

In the Office action, the Examiner asserted that drawing FIG. 7 shows one distance adjuster being located above the other, whereas the original disclosure does not appear to support this arrangement.⁵ Applicants respectfully disagree. The original disclosure states that first and second distance adjusters may be provided, that the distance adjusters may have screw lines that are separated by a predetermined distance, and that the separate distance adjusters may be perpendicular to each other. Thus, drawing FIG. 7, in which two distance adjusters are shown perpendicular to each other (in alignment with hypothetical orthogonal “X” and “Y” axes) and separated from one another by a predetermined distance (in the “Z” axis direction) is clearly supported by the original disclosure.

In view of the above, applicants respectfully submit that amended drawing FIG. 7 is clearly supported by the application as originally filed, and does not introduce any matter that was not previously described in the application and/or illustrated in the original drawing figures. Therefore, applicants respectfully request that this objection be reconsidered and withdrawn.

⁴ The application as originally filed, paragraph [0019].

⁵ Office action mailed July 30, 2007, paragraph no. 7, p. 4.

D. Objection to the Specification

In the outstanding Office action, the Examiner objected to the specification, asserting that paragraph [0045.1] should be deleted and noting that the non-entered after final amendments to the specification should be resubmitted. By the instant amendment, paragraph [0045.1] is deleted, and paragraphs [0049] and [0052] are amended. Accordingly, applicants respectfully request that this objection be reconsidered and withdrawn.

E. Rejection under 35 U.S.C. § 112, Second Paragraph

In the outstanding Office action, the Examiner rejected claims 1, 3-6, 8, 10, 17, 19, 24, 28, 29, 31-34, 36, 38-40, 45 and 53-68 under 35 U.S.C. § 112, second paragraph. Applicants respectfully traverse this rejection for at least the reasons set forth below.

In the Office action, the Examiner asserted that claims 1 and 28 describe “a single fixing stud” that fixes multiple electrodes to the stationary screw line.⁶ Applicants respectfully submit that the language of claims 1 and 28, when read in light of the specification, clearly and definitely describes an arrangement of a fixing stud for fixing *each* of the plurality of current supply and measurement supply electrodes. Nonetheless, in order to advance prosecution of the application, applicants have amended claims 1 and 28 to recite “a separate fixing stud for fixing each of” the current supply and measurement supply electrodes. Accordingly, applicants respectfully submit that the language of claims 1 and 28 is clear and definite.

In the Office action, the Examiner also asserted that the recitation of “the first and second electrodes” in claim 36 appears to lack antecedent basis. By the instant amendment, claim 36 has been amended to recite “the current supply electrodes,” which has clear antecedent support in claim 28, from which claim 36 ultimately depends.

In view of the above, applicants respectfully request that the rejection of the claims under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

⁶ Office action mailed July 30, 2007, paragraph no. 12, p. 5.

F. Rejoinder Requested

In view of the above, independent claims 1 and 28 are believed to be in condition for allowance. Claim 1 is generic to withdrawn claims 7 and 9. Claim 28 is generic to withdrawn claims 30, 35, 37 and 50. Accordingly, applicants respectfully request that these claims be rejoined and the election of species requirement mailed August 29, 2005, be withdrawn.

G. Applicant Initiated Interview Summary

On October 29, 2007, an applicant-initiated interview was conducted at the U.S. Patent and Trademark Office between applicants' representative, Examiner Apanius, and the Examiner's supervisor, Max Hindenburg. Applicants appreciate the courtesies extended to applicants' representative during the interview. As required by 37 C.F.R. § 1.133(b), applicants herewith provide a summary of that interview:

1. Brief Description of any Exhibit Shown

No exhibit was shown or demonstrated during the interview.

2. Identification of the Claims Discussed

The Examiner and applicants' representative generally discussed the independent claims.

3. Identification of the Specific Prior Art Discussed

No prior art was discussed.

4. Identification of the Proposed Amendments

Proposed amendments to the drawings were discussed with respect to the Examiner's objection thereto, i.e., with respect to the alleged failure of the original disclosure to provide support for the subject matter illustrated in drawing FIG. 7. No agreement was reached with regard to any proposed amendment to the drawings.

Proposed amendments to the specification were discussed with respect to the Examiner's objection thereto, i.e., with respect to deletion of paragraph [0045.1] discussed above.

Proposed amendments to the independent claims were discussed with respect to the outstanding rejection thereof under 35 U.S.C. § 112, second paragraph. In particular, applicants' representative proposed amending the independent claims to recite "... a respective fixing stud for fixing each ..." In response to this proposal, the Examiner suggested that the independent claims be amended to recite "... a separate fixing stud for fixing each ..." By the instant amendment, the independent claims have been amended in accordance with the Examiner's suggestion, and are believed to be allowable for the reasons set forth above.

Additionally, applicants' representative proposed amending claim 36 as set forth above, which the Examiner agreed would overcome the rejection thereof under 35 U.S.C. § 112, second paragraph.

5. Summary of the Arguments Presented to the Examiner

Applicants' representative presented arguments regarding the arrangement of the distance adjusters recited in the independent claims, the possible combinations of electrode distance adjusters and electrodes supported by the original specification, and the illustration thereof in drawing FIG. 7. In particular, applicants' representative presented arguments regarding the improper standard for "new matter" which the Examiner has applied and relied upon as a basis for maintaining the objection to drawing FIG. 7. Details of these arguments are set forth above.

6. General Indication of Other Pertinent Matters Discussed

No other pertinent matters were discussed during the interview.

7. General Outcome of the Interview

The Examiner indicated that he understood the arguments advanced by applicants' representative. Applicants' representative and the Examiner generally agreed that the amendments presented in the instant amendment would be sufficient to overcome the outstanding objection to the specification and rejections of the claims under 35 U.S.C. 112,

second paragraph. However, no agreement was reached with respect to the outstanding objection to the drawings.

H. Conclusion

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

Respectfully submitted,

LEE & MORSE, P.C.

Date: October 30, 2007


Eugene M. Dee, Reg. No. 32,039

Attachment: one (1) replacement sheet containing amended drawing FIG. 7

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE, SUITE 500
FALLS CHURCH, VA 22042
703.207.0008 TEL
703.207.0003 FAX

PETITION and
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying papers may also be charged to Deposit Account No. 50-1645.